

**BEFORE THE ARIZONA BOARD OF
OSTEOPATHIC EXAMINERS IN MEDICINE AND SURGERY**

IN THE MATTER OF:)	Case No. 2879
)	
GARY R. FORSBERG, D.O.)	STIPULATION AND CONSENT
Holder of License No. 2791 for the)	ORDER FOR PROBATION
practice of osteopathic medicine in the)	
State of Arizona.)	
_____)	

STIPULATION

By mutual agreement and understanding, the Arizona Board of Osteopathic Examiners (hereafter "Board") and Gary R. Forsberg, D.O. (hereinafter "Respondent"), the parties hereto agree to the following disposition to this matter.

1. Respondent acknowledges that he has read this Stipulation and the attached Consent Order; and, Respondent is aware of and understands the content of these documents.
2. Respondent understands that by entering into this Stipulation, he voluntarily relinquishes any rights to a hearing on the matters alleged as grounds for Board action or to seek judicial review of the Consent Order in state or federal court.
3. Respondent understands that this Stipulation and Consent Order will not become effective unless approved by the Board and signed by its Executive Director.
4. Respondent further understands that this Stipulation and Consent Order, once approved and signed, shall constitute a public records which will be disseminated as a formal action of the Board.
5. Respondent admits to the statement of facts and conclusions of law contained in the Stipulated Consent Order.

6. All admissions made by Respondent are solely for final disposition of this matter and any subsequent administrative proceedings or litigation involving the Board, Respondent and the State of Arizona; and, therefore, said admissions by Respondent are not intended for any other purpose or administrative regulatory proceeding or litigation in another state or federal court.

7. Respondent acknowledges and agrees that upon signing and returning this document (or a copy thereof) to the Board's Executive Director, he may not later revoke or amend this Stipulation or any part of the Consent Order, without first obtaining Board approval.

REVIEWED AND ACCEPTED this ____ day of March, 2001



Gary R. Forsberg, D.O.

STATE OF ARIZONA)
) ss
County of Maricopa)

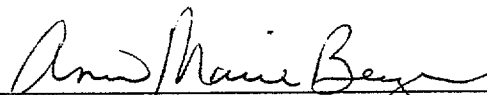
This instrument was acknowledged before me this ____ day of March, 2001 by the above-named individual.

Notary Public

My Commission expires:

REVIEWED AND APPROVED as to form by counsel for Respondent on this ____ day of
March, 2001.

REVIEWED AND SIGNED this 31st day of March, 2001 for the Board by:

A handwritten signature in cursive script, reading "Ann Marie Berger", written over a horizontal line.

Ann Marie Berger, Executive Director
Arizona Board of Osteopathic Examiners in Medicine
and Surgery

**BEFORE THE ARIZONA BOARD OF
OSTEOPATHIC EXAMINERS IN MEDICINE AND SURGERY**

IN THE MATTER OF:)	Case No. 2897
)	
GARY R. FORSBERG, D.O.)	FINDINGS OF FACT,
Holder of License No. 2791 for the)	CONCLUSIONS OF LAW AND
practice of osteopathic medicine)	CONSENT ORDER
in the State of Arizona.)	
_____)	

FINDINGS OF FACT

1. Gary R. Forsberg, D.O., (hereafter "Respondent"), is a licensee of the Board and the holder of License No. 2791.

2. On or about January 2, 2001 the Board received information from Sierra Vista Regional Health Center that a physician in the Emergency Room complained to the Chief of Staff after a very long delay in receiving a report from Respondent of a CT Scan. When speaking with Respondent, the ER physician felt that Respondent was significantly under the influence of alcohol. Respondent was requested to come to the have blood drawn by the Director of Pathology. The blood alcohol level of 0.155 ng/dl which would have made Respondent legally intoxicated. Upon questioning Respondent by the Chief of Staff, Respondent stated that he had treated his cold with 2 ½ bottles of Nyquil.

3. On January 5, 2001 in a telephone conversation with the Executive Director and Deputy Director, Respondent did acknowledge that he had taken some Nyquil and drank some egg nog on December 25, 2000 but hadn't felt that he was impaired.

3. On January 8, 2001, Respondent voluntarily entered into an evaluation at

Springbrook Northwest Rehabilitation Center at the request of the Executive Committee at Sierra Vista Regional Medical Center. Respondent has not acknowledged that he had a problem with his use of alcohol.

4. Respondent requested that he enter into a Stipulated Consent Order for assessment and in-patient treatment and having completed such treatment be placed under terms of Probation for a five-year period to include rehabilitation, practice restriction and monitoring. In public session the Board voted on January 8, 2001 that Respondent was medically and/or psychologically unable to engage in the practice of medicine and authorized the Board's Executive Director to sign and issue a Stipulated Consent Order for Suspension regarding Respondent.

5. Respondent successfully completed treatment at Springbrook Northwest on March 13, 2001 and subsequently requested that his license be reactivated under a probationary Consent Order.

6. Respondent appeared before the Board on March 31, 2001 and agreed to the submission of the Stipulated Consent Order for Probation at which time the Board considered and approved the entry of the Stipulated Consent Order for Probation.

CONCLUSIONS OF LAW

1. Pursuant to Arizona Revised Statutes § 32-1800, et seq., the Arizona Board of Osteopathic Examiners in Medicine and Surgery has subject matter and personal jurisdiction in this matter.

2. The Board has the authority to enter into a stipulated order for disciplinary action against a license, pursuant to A.R.S. § 41-1061(D), A.R.S. § 32-1855 and A.R.S. § 32-1861(D).

3. The Respondent engaged in unprofessional conduct as defined in A.R.S. § 32-1854

by violating federal and state statutes and regulations:

- (3) Practicing medicine while under the influence of alcohol, narcotic or hypnotic drugs or any substance that impairs or may impair the licensee's ability to safely and skillfully practice medicine.
- (4) Being diagnosed by a physician licensed under this chapter or chapter 13 of this title or a psychologist licensed under chapter 19.1 of this title as excessively or illegally using alcohol or a controlled substance.
- (6) Engaging in the practice of medicine that harms or may harm a patient or that the Board determines falls below the community standard.
- (40) Any conduct or practice that endangers a patient's or the public's health or may reasonably be expected to do so.
- (41) Any conduct or practice that impairs the licensee's ability to safely and skillfully practice medicine or that may reasonably be expected to do so.

4. Based upon the Findings of Fact set forth above herein, the Board concludes that it has the requisite factual basis and legal authority to order Respondent's license under the following terms and conditions of probation.

CONSENT ORDER

Pursuant to the authority vested in the Board by A.R.S. § 32-1855 and A.R.S. § 41-1061(D), **IT IS HEREBY ORDERED THAT:**

1. Gary Forsberg, D.O. ("Respondent"), Board License Number 2791, will be placed under **PROBATION** for five (5) years and he shall comply with the terms and conditions of probation as set forth herein:

2. From the date of this Order, Respondent shall obtain psychiatric or psychological treatment by a therapist(s) who is either a licensed psychiatrist and/or psychologist and is selected by Respondent and approved by the Board. Respondent shall comply with the therapist

recommendation for the frequency of therapy treatment sessions. Respondent shall inform the Board by letter (mailed within ten days of the date of this Order) of the therapist's name; and, Respondent shall undertake and fully cooperate with a program of treatment established by the therapist. In the event Respondent changes therapists, he shall give the Board written notice within ten (10) days of said action. Respondent shall not discontinue or reduce the frequency of psychotherapy sessions until he has submitted a written request to the Board and obtained Board approval.

3. Respondent's therapist(s) shall receive a copy of this Order and Board Staff shall cooperate with and disclose all relevant information in the Board's files concerning Respondent. The treating therapist shall be directed by Respondent to send to the Board a detailed written progress report every month for the remainder of the probation; and Respondent, shall waive any confidentiality concerning his psychotherapy in order that the Board may receive full disclosure of information. The expense of the aforementioned therapy and the reports to the Board by Respondent's therapist shall be the sole responsibility of the Respondent.

4. Respondent shall provide a copy of this Order and any subsequent Orders to all facilities where Respondent is currently (or subsequently) employed as a physician and/or has (or subsequently receives) privileges to engage in the practice of medicine; and, Respondent shall continue to make the aforementioned disclosure and provide copies of this Consent Order until the expiration of this Order. Respondent shall also provide a copy of this Order to all treating physicians and therapists for the remainder of his probation.

5. Respondent may have his license to practice as an osteopathic physician restricted, suspended or revoked by the Board in the future if:

(A) The Board finds that Respondent does not have the requisite mental, physical

and emotional fitness to safely continue the practice of medicine; or,

(B) There are new grounds for finding unprofessional conduct concerning Respondent; or,

(C) Fails to comply fully with the terms and conditions of this Order.

6. Respondent shall abstain completely from the consumption of alcoholic beverages which includes any medication containing alcohol such as cough syrup; and, Respondent shall not consume illicit drugs or take any controlled substances (i.e., prescription only drugs), unless such medication is prescribed for him by his treating physician. Respondent shall maintain a monthly log (for the duration of probation) of all prescription only drugs taken by him and such log shall include the following information:

- (a) the name of the medication;
- (b) name of prescribing physician;
- (c) reason for the medication.

At the first of each month, Respondent shall report by letter to the Board whether or not he is taking any prescription only medication and, if so, a copy of his log reflecting the above information.

7. Respondent shall also, as part of his probation: (A) submit to and cooperate in any independent medical or psychological evaluation that is ordered by the Board for Respondent and conducted by the Board's designated physician and/or psychologist which shall be paid for by Respondent; and (B) appear before the Board, upon receipt of a request by written or telephonic notification from the Board's executive director which shall be given at least five (5) days prior to the Board meeting; and, (C) submit to random biological fluid testing and promptly provide (i.e.,

within sixty (60) minutes of notification) required biological fluids for testing and said testing shall be done at the Respondent's expense.

8. Respondent shall participate in a minimum of four (4) self-help meetings per week through such organizations as A.A., N.A., C.A. and doctor's Caduceus group. Respondent shall keep a log of all meetings attended and have the log signed by the chairperson of the meeting. Respondent will provide the Board with a copy of the signed log the first of every month.

9. In the event Respondent moves and ceases to practice medicine in Arizona, he shall give written notice to the Board of his new residence address within twenty (20) days of moving; and, the terms and duration of probation may be stayed by the Board until Respondent returns to practice medicine in Arizona.

10. Respondent shall reimburse the Board for all expenses associated with the investigation, hearing and continued monitoring of this matter.

11. Respondent shall continue to meet all licensing requirements such as continuing medical education and renewal requirements including applicable fees pursuant to A.R.S. § 32-1825.

12. The Board's Executive Director shall send correspondence to the appropriate state and/or federal law enforcement agency disclosing information in the Board's possession which may establish criminal misconduct by Respondent, i.e., illicit use of controlled substances.

13. Respondent's failure to comply with the requirements of this Order shall constitute unprofessional conduct as defined at A.R.S. § 32-1854(26), as amended, and may be considered as grounds for further disciplinary action (e.g., suspension or revocation of license) in the event that Respondent fails to comply with any of the requirements of this Order.

~~ISSUED~~ this 31st day of March, 2001.

ARIZONA BOARD OF OSTEOPATHIC EXAMINERS
IN MEDICINE AND SURGERY

By: *Ann Marie Berger*
Ann Marie Berger, Executive Director

A copy mailed
this 2nd day of March, 2001 to:

Gary Forsberg, D.O.
P.O. Box 999
Sierra Vista, AZ 85635

Blair Driggs
Assistant Attorney General
Office of the Attorney General
1275 W. Washington
Phoenix AZ 85007 (w/enclosure)

Arizona Board of Pharmacy
5060 N. 19th Ave., Suite 101
Phoenix AZ 85015

Drug Enforcement Administration
Attention: Diversion Section
3010 N. 2nd St.
Phoenix AZ 85012

Celina Shepherd, Compliance Officer